

view of U.S. Patent No. 6,185,184 to Mattaway, et al. ("Mattaway"). Applicants respectfully traverse this rejection.

In order to render a claim obvious, the relied upon references must teach or suggest every limitation of the claim such that the invention as a whole would have been obvious at the time the invention was made to one skilled in the art. Among other limitations, Claim 1 recites aborting the transmission without sending all of the primary packet. Applicants submit that this limitation is neither taught nor suggested by the cited references in combination.

In making the rejection, the Examiner states that Reference 1 does not teach aborting a transmission without sending all primary packets. (Office Action dated 7/5/01, p. 3, last sentence.) The Examiner argues that since the primary packets of Reference 1 are comprised of *quadlets* (groups of 4 bytes), if a primary packet could be aborted during transmission, it would occur on a quadlet boundary. (Office Action dated 11/07/01, p. 2, ¶¶ 3-4.) The Examiner relies on Mattaway to show that an email message is composed of multiple <INFO> packets and that its transmission can be aborted on an <INFO> packet boundary. (Mattaway, Fig. 17B, col. 26, lines 29-35.) The Examiner concludes that it would have been obvious to modify Reference 1 by including the abort feature from Mattaway such that transmission of a primary packet in Reference 1 could be terminated on a quadlet boundary rather than sending all of the primary packet. Applicants respectfully disagree.

First, unlike Applicants' Claim 1, Mattaway and Reference 1 do not teach or suggest partially transmitting a packet. The cited portion of Mattaway discloses that an email message can be aborted on an <INFO> packet boundary: "Webphone [] may transmit an <INFO_ABORT> packet to either prevent transmission of any <INFO> packets or to stop transmission of any remaining packets...." (Mattaway, col. 26, lines 30-33.) And although Reference 1 discloses that a primary packet is composed of quadlets, the cited portions of Reference 1 do not disclose a mechanism whereby aborting transmission of a primary packet will occur on less than a primary packet boundary. Hence, neither Mattaway nor Reference 1 teach or suggest aborting the transmission without sending all of the primary packet.

Second, Mattaway and Reference 1 cannot be combined. According to the cited portions of Reference 1, quadlets have no header information whereas the <INFO> packets of Mattaway have a session ID field. (Mattaway, col. 33, Tables 7-8.) The <INFO_ABORT> packet of Mattaway uses the session ID field contained in the <INFO> packet to identify which session to abort. (Mattaway, col. 19, lines 60-67.) Since quadlets have no header information, the abort mechanism of Mattaway would not work. Furthermore, as discussed above the cited portions of Reference 1 do not disclose the capability to abort a partially transmitted primary packet. Hence, there would be no motivation to combine the teachings of Mattaway and Reference 1.

Finally, the above arguments lead to the inevitable conclusion that the Examiner has engaged in impermissible hindsight. To disregard the fact that the quadlets of Reference 1 contain no means to identify a communication session and that neither Mattaway nor Reference 1 disclose aborting a transmission on less than a packet boundary would be an improper a la carte construction of the references.

Accordingly, Applicants respectfully request the withdrawal of the rejection of Claim 1. Claims 2 and 3 are dependant on independent Claim 1 and are not obvious for at least the same reasons.

Among other limitations, Claims 4, 5, and 9 recite sending a NAK concurrently with receiving a primary packet. Applicants submit that this limitation is neither taught nor suggested by the cited references in combination.

Mattaway discloses that the WebPhone API utilizes sockets to communicate with other processes on a network. (Mattaway, col. 17, lines 11-35.) A socket provides a transmission conduit that can utilize a number of underlying communication protocols, including IP, UDP, RTP, and TCP. See id. These underlying protocols handle the details of transmitting and receiving packets so that higher level application programs can implement application-specific protocols. (See W. Richard Stevens, *TCP/IP Illustrated, Vol. 1*, 1994, pp. 2-3.) In other words, application programs using the WebPhone API to retrieve packets from sockets do so after the underlying protocol has fully received the packet. Therefore, Mattaway

cannot teach or suggest sending a NAK concurrently with receiving a primary packet since the primary packet is received in its entirety by the underlying protocol before the application program using the WebPhone API ever sees it. In addition, the cited portions of Reference 1 fail to disclose sending a NAK concurrently with receiving a primary packet. Therefore, neither Mattaway nor Reference 1 teach or suggest this limitation.

Accordingly, Applicants respectfully request the withdrawal of the rejection of independent Claims 4, 5, and 9. Claims 6, 7, and 8 depend from Claim 5. Claims 10 and 11 depend from Claim 9. As such, the rejected dependent Claims are not obvious for at least the same reasons as their respective independent claims.

CONCLUSION

In view of the foregoing, it is believed that all claims now pending (1) are in proper form, (2) are neither obvious nor anticipated by the relied upon art of record, and (3) are in condition for allowance. A Notice of Allowance is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207-3800.

If necessary, the Commissioner is hereby authorized in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No.

02-2666 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly, extension of time fees.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN

Dated: January 7, 2002

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Box Non-Fee Amendment, Assistant Commissioner for Patents, Washington, D.C. 20231, on January 7, 2002.

Diane Martinez 1/7/02
Diane Martinez Date